

(10) A hazardous substances control and contingency plan describing actions to be taken to use, store, control, clean up, and dispose of these materials in the event of a spill or accident;

(11) A general description of the anticipated impacts that the proposed exploratory activities may have on the refuge's wildlife, its habitat, the environment, subsistence uses and needs, and cultural resources, and a description of mitigating measures which will be implemented to minimize or avoid such impacts;

(12) A description of the proposed procedures for monitoring the environmental impacts of its operation and its compliance with all regulatory and permit requirements;

(13) A statement that, if authorized to conduct exploratory activities, the applicant shall comply with this part, its special use permit, its approved exploration plan, plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director;

(14) A description of the applicant's proposed data quality assurance and control program; and

(15) Such other pertinent information as the Regional Director may reasonably require.

[48 FR 16858, Apr. 19, 1983, as amended at 49 FR 7570, Mar. 1, 1984]

§ 37.22 Approval of exploration plan.

(a) An exploration plan shall be approved by the Regional Director if he determines that it satisfies the requirements of § 37.21 (c) and (d) and is otherwise consistent with the Act and the regulations of this part. In order to meet the objective and limitations stated in § 37.1, enforce the standards stated in § 37.11(b), or minimize adverse impacts on subsistence uses, the Regional Director may approve or disapprove any exploration plan in whole or in part or may require, as a condition of approval, an applicant to conduct its exploratory activities in an assigned area or jointly with other applicants or to make such modification in its exploration plan as he considers necessary and appropriate to make it consistent with this part. No plan shall be approved if the applicant submitting it does not demonstrate to the reason-

able satisfaction of the Regional Director its adequate technical and financial ability to conduct integrated and well designed exploratory activities in an arctic or subarctic environment, and a history of responsible compliance with any exploration permits that it or its responsible officials or partners may have previously held.

(b) Upon receipt of an exploration plan submitted in accordance with § 37.21(b), the Regional Director shall promptly publish notice of the application and text of the plan in the FEDERAL REGISTER and newspapers of general circulation in the State of Alaska. The Regional Director shall determine within 90 days after the plan is submitted whether the plan is consistent with this part. The Regional Director may extend this 90-day period for up to 30 additional days upon written notice to the applicant. Before making his determination, the Regional Director shall hold at least one public hearing in the State for the purpose of receiving public comments on the plan and may confer with the applicant whenever he deems it necessary. The Regional Director shall give the applicant written notice of his determination.

(c) Whenever the Regional Director disapproves an exploration plan in whole or in part, he shall notify the applicant in writing of the reasons for his disapproval. The applicant may request the Director to consider that which was disapproved by the Regional Director by filing a written request with the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, within 30 days from the date of disapproval. Such a request shall not operate to stay the Regional Director's disapproval. The request shall:

(1) State fully the basis for the applicant's disagreement with the Regional Director's determination;

(2) Include any statement or documentation, in addition to that already submitted by the applicant with its application, which demonstrates that the applicant's exploration plan is consistent with this part; and

(3) Indicate whether or not the applicant requests an informal hearing before the Director.

The Director shall provide an informal hearing if requested by the applicant. Within 30 days of the receipt of the applicant's request for reconsideration or of the applicant's hearing, if any, whichever is later, the Director shall affirm, reverse, or modify the Regional Director's determination. Written notice of the Director's decision and the reasons therefor shall be provided promptly to the applicant. The Director's decision shall constitute the final administrative decision of the Secretary in the matter. Nothing in this part shall be construed to deprive the Secretary or the Assistant Secretary for Fish and Wildlife and Parks of the authority to take jurisdiction at any stage of any appeal or request for reconsideration and render the final decision in the matter after holding any informal hearing that may be required, to review any decision of the Regional Director or Director, or to direct the Regional Director or Director to reconsider a decision.

(d) The Regional Director, as a condition of approval of any exploration plan under this section, shall:

(1) Require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Regional Director, as provided in § 37.53;

(2) Make such data and information available to the public, except that any processed, analyzed and interpreted data or information shall be held confidential by the Department for a period of not less than 10 years following the submission of such data or information to the Regional Director or 2 years following any lease sale including the area within the refuge from which the information was obtained, whichever period is longer, as provided in § 37.54; and

(3) Require that all raw data and information obtained as a result of carrying out the plan shall be made available by the permittee to any person at fair cost.

(e) In the course of evaluating an exploration plan, the Regional Director shall also evaluate the effect of the proposed exploratory activities on subsistence uses and needs, the availability for exploration of alternate

areas within the coastal plain, and alternatives to the proposed activities which would reduce or eliminate the use of areas within the coastal plain needed for subsistence purposes. If the Regional Director finds that the exploration plan, if approved, would significantly restrict subsistence uses, he shall satisfy the requirement to hold a hearing on this issue by incorporating it in any hearing held pursuant to paragraph (b) of this section and shall otherwise satisfy the procedural requirements of section 810(a) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2427, 16 U.S.C. 3120, before approving the plan.

§ 37.23 Special use permit.

(a) Within 45 days, or sooner if practicable, of approving an exploration plan, or portion thereof, the Regional Director shall, unless prohibited by law, issue a special use permit to authorize the permittee to proceed with those exploratory activities described and approved in its exploration plan, or portion thereof, provided that the requirements of § 37.14(a) have been satisfied. The special use permit may contain such terms and conditions and may be amended from time to time as the Regional Director deems necessary and appropriate to carry out the Act and this part.

(b) Before issuing a special use permit to authorize exploration of lands within the coastal plain allotted pursuant to the Act of May 17, 1906, 34 Stat. 197, as amended by the Act of August 2, 1956, 70 Stat. 954, or on lands within the coastal plain the surface estate in which has been selected by or conveyed to the Kaktovik Inupiat Corporation pursuant to Sections 12 and 14 of the Alaska Native Claims Settlement Act, 85 Stat. 701 and 702, 43 U.S.C. 1611 and 1613, the Regional Director shall seek the views of the holder of such approved native allotment or the Corporation for the purpose of developing permit conditions designed to mitigate the effects of such exploration on its interests.

§ 37.24 Plan of operation.

Each approved exploration plan shall be supplemented by a written plan of